



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

JUL 14 7 02 AM '04

News Media Information 202 / 418-0500
Internet: <http://www.fcc.gov>
TTY: 1-888-835-5322

DOCKET FILE COPY ORIGINAL

DA 04-2083
Released: July 12, 2004

NEW SKIES SATELLITES N.V. (TRANSFEROR) AND MUNARO HOLDING B.V. (TRANSFeree) SEEK APPROVAL TO TRANSFER CONTROL OF FCC LICENSES AND AUTHORIZATIONS HELD BY NEW SKIES SATELLITES N.V. AND NEW SKIES NETWORKS, INC.

IB Docket No. 04-247

PLEADING CYCLE ESTABLISHED

Petitions Due: August 11, 2004
Oppositions Due: August 23, 2004
Replies Due: August 30, 2004

I. INTRODUCTION

On June 25, 2004, Munaro Holding B.V. ("Munaro") and New Skies Satellites N.V. ("New Skies") (collectively, "Applicants") filed an application pursuant to section 310(d) of the Communications Act of 1934, as amended,¹ seeking consent to transfer control of non-common carrier fixed satellite service earth station licenses held by New Skies Networks, Inc. ("New Skies Networks") from New Skies to Munaro ("Transfer Application").² The Applicants also filed, under section 25.137(g) of the Commission rules,³ an application notifying the Commission of Munaro's proposed acquisition of New Skies' foreign-licensed satellites that are authorized to provide service in the United States pursuant to the Commission's Permitted Space Station List ("Permitted List"). The Applicants request that the Commission modify the Permitted List to specify Munaro as the new owner and operator of the New Skies satellites, subject to consummation of the proposed transaction ("Notification Application").⁴

II. THE PARTIES

New Skies, the transferor, is a Netherlands-based satellite company created in 1998 from certain assets formerly held by the International Telecommunications Satellite Organization ("INTELSAT").⁵

¹ 47 U.S.C. § 310(d).

² See File No. SES-T/C-20040625-00886.

³ 47 C.F.R. § 25.137(g).

⁴ See File No. SAT-PPL-20040625-00123.

⁵ INTELSAT refers to the former treaty-based intergovernmental satellite organization.

Pursuant to the Open-Market Reorganization for the Betterment of International Telecommunications Act (the "ORBIT Act"), New Skies conducted an initial public offering in October 2000, and, in March 2001, the Commission granted New Skies permanent authority to provide satellite services to, from, and within the United States. New Skies' satellites offer video, data, voice and Internet communications services to a range of telecommunications carriers, broadcasters, large corporations, Internet service providers and government entities around the world. Several of New Skies' satellites, licensed by the Kingdom of The Netherlands, are authorized to provide service to the United States pursuant to the Commission's Permitted Space Station List ("Permitted List"), and are the subject of the Notification Application. New Skies' direct, wholly-owned subsidiary, New Skies Networks, also holds six U.S. non-common carrier earth station licenses, which are the subject of the Transfer Application.

Munaro, the transferee, is a Netherlands private company with limited liability that is 100% indirectly owned by Neptune Holdings GP, a Cayman Islands general partnership. Applicants state that ultimate ownership and control of Munaro, which would be renamed New Skies Satellites, B.V., would be held indirectly by five private equity funds affiliated with Blackstone, a leading global investment and advisory firm (collectively, the "Blackstone Funds"). Two of these entities, Blackstone NSS Communications Partners (Cayman) L.P., a Cayman Islands limited partnership, and Blackstone Capital Partners (Cayman) IV L.P.,⁶ also a Cayman Islands limited partnership, would hold indirectly, and in the aggregate, approximately 93.5% of the equity of Neptune Holdings GP. The three other Blackstone limited partnerships would hold the remaining indirect interests in Munaro: Blackstone Family Communications Partnership (Cayman) L.P., Blackstone Capital Partners (Cayman) IV-A L.P., and Blackstone Family Investment Partnership (Cayman) IV-A L.P.⁷

Two Blackstone executives, Peter G. Peterson and Stephen A. Schwarzman, would indirectly control all five of the Blackstone Funds through ownership interests in the general partners of the Blackstone Funds. Most of the equity in the Blackstone Funds will be contributed by over 300 limited partners, including both U.S. and non-U.S. investors. Applicants state that, under the limited partnership agreement for each of the Blackstone Funds, the limited partners will have no material involvement in the control and management of the operation of the limited partnership, and therefore no power to control the day-to-day operations of the Blackstone Funds, Munaro, or the licensee, New Skies Networks. Applicants further represent that no single limited partner will indirectly own a 10% or greater interest in Munaro.

III. THE TRANSACTION

On June 5, 2004, Munaro and its parent, Neptune Holdings GP, entered into a transaction agreement with New Skies, whereby Neptune Holdings GP would acquire substantially all of the assets of New Skies, including its foreign-licensed satellite systems, all of the capital stock of New Skies

⁶ Instead of Blackstone Capital Partners (Cayman) IV L.P. ("BCP IV"), it is possible the acquiring entity will be Blackstone NSS Capital Partners (Cayman) IV L.P. ("BCP NSS IV"). In that case, Applicants state that the acquiring entity would have substantially the same terms and conditions as the existing funds, to the maximum extent applicable. The general partner of BCP NSS IV would be the existing general partner of BCP IV. The limited partners of BCP NSS IV would be the same as the limited partners of BCP IV, unless excluded from the investment by the General Partner in order to ensure, among other things, that the investment would be in compliance with laws and regulations.

⁷ Instead of Blackstone Capital Partners (Cayman) IV-A L.P. ("BCP IV-A"), it is possible the acquiring entity will be Blackstone NSS Capital Partners (Cayman) IV-A L.P. ("BCP NSS IV-A"). In that case, Applicants state that the acquiring entity would have substantially the same terms and conditions as the existing funds, to the maximum extent applicable. The general partner of BCP NSS IV-A would be the existing general partner of BCP IV-A. The limited partners of BCP NSS IV-A would be the same as the limited partners of BCP IV-A, unless excluded from the investment by the General Partner in order to ensure, among other things, that the investment would be in compliance with laws and regulations.

Networks, which holds six U.S. non-common carrier earth station licenses, and all physical assets associated with those licenses. New Skies would receive its consideration under the transaction in cash, which would be distributed to its shareholders, and New Skies would be liquidated. In the alternative, the Applicants might choose to accomplish the transfer of control as follows: New Skies would create a new, wholly-owned subsidiary and transfer all of its assets and liabilities to that subsidiary, including all of the capital stock of New Skies Networks. Munaro would then acquire from New Skies all of the capital stock of the newly-created subsidiary. Munaro would merge with the subsidiary, which would cease to exist, and hold directly the stock of New Skies Networks. In either event, Applicants state, the acquisition of New Skies Networks would be accomplished via transfer of corporate control.

IV. PUBLIC INTEREST SHOWING

The Applicants contend that approval of the proposed transaction would promote competition and serve the public interest, convenience and necessity. They state that New Skies' business, trademarks and operations will remain unchanged, as well as its existing management team. The Applicants state that the transaction will enable the creation of an optimized capital structure, with reduced dependence on public capital markets which will help New Skies continue to grow its business, to develop and introduce new products and services and to compete with rival suppliers. The Applicants state that the transaction raises no competitive issues because neither Munaro nor its affiliates own interests in existing satellite providers.⁸ Further, Applicants state that the proposed transaction will remove any and all remaining ownership interests now held by former signatories of, or investors in, the former intergovernmental organization, INTELSAT. Applicants state that New Skies is not subject to section 310(b) of the Communications Act⁹ because New Skies is a provider of non-common carrier and information services. They state that New Skies neither owns nor operates any voice or VOIP network switching equipment other than for its internal communications use.

New Skies currently owns and operates three foreign-licensed satellites, NSS-5, NSS-7 and NSS-806, that are authorized to provide service to the United States via the Commission's Permitted List.¹⁰ In support of its request for the Commission to "review and affirmatively authorize transfer of the New Skies' Permitted List authorizations" to Munaro, the Applicants state that Munaro "does not now possess, nor will it acquire or enjoy the exclusive right of handling telecommunications to or from the United States, its territories or possessions, and any other country or territory, by reason of any concession, contract, understanding or working arrangement to which the satellite operator or any persons or companies controlling or controlled by the operator are parties." Munaro also "acknowledges that the transfer of the Permitted List authorization[s] will not authorize it to provide any Direct-to-Home (DTH) service, Direct Broadcast Satellite (DBS) service, or Digital Audio Radio Service (DARS) to, from, or within the United States." In accordance with section 25.137(g), we invite parties to raise issues regarding whether the proposed transaction would have any effect on the analysis conducted in the Commission orders that authorized these satellite systems to be placed on the Permitted List.

⁸ Other funds affiliated with Blackstone hold a 10% or greater interest in the following entities: Centennial Communications Corp., Crowley Wireless Broadband LLC, FiberNet Telecom Group, Inc., Freedom Communications Inc., PaeTec Communications, Inc., and Utilicom Networks LLC.

⁹ See 47 U.S.C. § 310(b).

¹⁰ On June 23, 2004, New Skies notified the Commission of the decommissioning of the NSS-513 satellite and requested that the Commission remove NSS-513 from the Permitted List.

V. SECTION 310 LICENSES AND AUTHORIZATIONS

Applicants filed the following applications seeking consent to transfer control of earth station licenses and to transfer Permitted List authorizations from New Skies Satellites N.V. to Munaro Holding B.V.:

Satellite Space Stations on the Commission's Permitted Space Station List:

| File Number | Licensee/Call Signs |
|------------------------|---|
| SAT-PPL-20040625-00123 | New Skies Satellites N.V. Call Sign(s): NSS-5; NSS-7 and NSS-806 |

Satellite Earth Stations:

| File Number | Licensee/Call Signs |
|------------------------|--|
| SES-T/C-20040625-00886 | New Skies Networks, Inc. Call Sign(s): E000102; E020071; E980076; E000726; E000696; E000152 |

VI. GENERAL INFORMATION

The Applications referenced herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return the Applications if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules, regulations, or policies. Final action will not be taken on the Applications earlier than 31 days following the date of this Public Notice.¹¹

Interested parties may file comments regarding or petitions to deny the Applications and Petition for Declaratory Ruling no later than **August 11, 2004**. Oppositions or responses to these comments and petitions may be filed no later than **August 23, 2004**. Replies may be filed no later than **August 30, 2004**. All filings concerning matters referenced in this Public Notice should refer to **IB Docket No. 04-247**.

Under the Commission's procedures for the submission of filings and other documents,¹² submissions in this matter may be filed electronically (*i.e.*, through ECFS) or by hand delivery to the Commission's Massachusetts Avenue location.

- **If filed by ECFS,**¹³ comments shall be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

¹¹ See 47 U.S.C. §309(b).

¹² See *Implementation of Interim Electronic Filing Procedures for Certain Commission Filings*, Order, 16 FCC Rcd 21483 (2001); see also *FCC Announces a New Filing Location for Paper Documents and a New Fax Number for General Correspondence*, Public Notice, 16 FCC Rcd 22,165 (2001); *Reminder: Filing Locations for Paper Documents and Instructions for Mailing Electronic Media*, Public Notice, 18 FCC Rcd 16705 (2003).

¹³ See *Electronic Filing of Documents in Rulemaking Proceedings*, GC Docket No. 97-113, Report and Order, 13 FCC Rcd 11322 (1998).

- **If filed by paper**, the original and four copies of each filing must be filed by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, S.W., Washington, D.C. 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

One copy of each pleading must be delivered electronically, by e-mail or facsimile, or if delivered as paper copy, by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (according to the procedures set forth above for paper filings), to:

- (1) the Commission's duplicating contractor, Best Copy and Printing, Inc., at fcc@bcpweb.com or (202) 488-5563 (facsimile);
- (2) James Ball, Chief, Policy Division, International Bureau, at james.ball@fcc.gov or (202) 418-2824 (facsimile);
- (3) Alexandra Field, Policy Division, International Bureau, at alexandra.field@fcc.gov or (202) 418-2824 (facsimile);
- (4) Kimberly Cook, Policy Division, International Bureau, at kimberly.cook@fcc.gov or (202) 418-2824 (facsimile);
- (5) JoAnn Lucanik, Satellite Division, International Bureau, at joann.lucanik@fcc.gov or (202) 418-0748 (facsimile);
- (6) Susan O'Connell, Policy Division, International Bureau, at susan.o'connell@fcc.gov or (202) 418-2824 (facsimile);
- (7) David Krech, Policy Division, International Bureau, at david.krech@fcc.gov or (202) 418-2824 (facsimile); and
- (8) Neil Dellar, Office of General Counsel, at neil.dellar@fcc.gov, or (202) 418-1234 (facsimile).

Copies of the Applications and any subsequently-filed documents in this matter may be obtained from Best Copy and Printing, Inc., in person at 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, via telephone at (202) 488-5300, via facsimile at (202) 488-5563, or via e-mail at fcc@bcpweb.com. The Applications and any associated documents are also available for public inspection and copying during normal reference room hours at the following Commission office: FCC Reference Information Center, 445 12th Street, S.W., Room CY-A257, Washington, D.C. 20554. The Applications also are available electronically through the Commission's ECFS, which may be accessed on the Commission's Internet website at <http://www.fcc.gov>. Additional information regarding the transaction will be available on the FCC's Office of General Counsel's website, <http://www.fcc.gov/ogc>, which will contain a fully indexed, unofficial listing and electronic copies of all materials in this docket. Alternate formats of this public notice (computer diskette, large print, audio recording, and Braille) are available to persons with disabilities by contacting Brian Millin at (202) 418-7426 (voice), (202) 418-7365 (TTY), or send an e-mail to access@fcc.gov.

For further information, contact the Policy Division, International Bureau at 202-418-1460.

-FCC-